

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 814 of 2005

Between:

Jasbir Singh, S/o. Late Harbhajan Singh,
D.No. 3-6-291, Sadana Building, Hyderguda, Hyderabad.

..... PETITIONER

AND

1 The Superintending Engineer, Operations Circle North,
A.P.C.P.D.C.L (APSCEB), Minted Compound, Hyderabad now

designated The Superintending Engineer,
Assessment APCPDCL, AP STATE, Housing Corporation

Building, Urdu Galli, Street No.17, Himayathnagar,

Hyderabad.

2 The Assistant Divisional Engineer, D.P.E.II, (APSEB,

APCPDCL,) Hyderabad.

3 The Chief General Manager, Hyderabad Zone, APCPDCL,

Mint Compound, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Certiorari calling for the relevant records pertaining to Lr.No.GCM/HZ/Hyd/SMRT/BB/D.No.725/04 Dt. 4-2-2004 culminate the final assessment order No. SE/OP/N/H/T-DPE/BB.32/96-97/DI-7798/D.NO.742, dt. 4-9-97 and quash the same as illegal, unjust, and contrary to the provisions of law besides being volative of principles of natural justice and pass such other order or

orders.

Counsel for the Petitioner: MR.S.A.RAZAK

Counsel for the Respondents: MR.M.SREERAMULU REDDY

The Court at the admission stage made the following :

ORDER:

The petitioner is provided with supply of electricity through S.C.No.7798 under commercial category. He was issued an order of provisional assessment, dated 11.10.1996 by the 1st respondent, alleging that there was defect in the meter fitted to the service connection of the petitioner and back billing to an extent of Rs.1,67,237/- is to be made. The petitioner raised objections to the same. In the order of final assessment, the amount of back billing was reduced to Rs.74,865/-. The petitioner filed O.P.No.1115 of 1996 before the Consumer Disputes Redressal Forum-II, Hyderabad, aggrieved by the order of final assessment. The O.P. was dismissed by the Forum on 25.06.2001. Thereafter, the petitioner preferred an appeal before the 3rd respondent. Through his order dated, 04.02.2004 the 3rd respondent refused to entertain the appeal, on the ground that it was filed beyond the stipulated period of limitation. The petitioner feels aggrieved by the same. Hence, this writ petition.

Learned counsel for the petitioner submits that the order of final assessment was passed during the lifetime of the petitioner's father and it was being looked after by him. He contends that the father of the petitioner died on 17.12.2003 and the petitioner was not aware of the dismissal of the O.P.; and it was only when steps were being taken to disconnect the power supply, he preferred the appeal. He submits that the delay in presentation of the appeal is neither wilful nor wanton and the 3rd respondent ought to have condoned the same.

Learned Standing Counsel for the respondents, on the other hand, submits that there was indifference and laches on the part of the petitioner and infact the father of the petitioner was also not diligent in prosecuting the remedies. He contends that whatever might have been the justification in not preferring the appeal when the O.P. was pending, there is no justification in not preferring the appeal thereafter.

The 1st respondent passed an order of final assessment, at a time, when the father of the petitioner was alive. It was challenged in the O.P. filed under the Consumers

Protection Act. The O.P. was dismissed by the Forum on 25.06.2001. The petitioner or his father ought to have prosecuted their further remedies immediately thereafter. Petitioner states that his father was in coma for a long time, till his death on 17.12.2003 and that he came to know about these proceedings only when steps were being taken to disconnect the power supply.

It is true that there was long delay in presenting the appeal. However, having regard to the fact that the father of the petitioner, who was looking after the matter, died on 17.12.2003 and that the petitioner was not aware of the proceedings, this Court is of the view that the petitioner deserves to be given an opportunity of pursuing the remedy of appeal.

Under sub-Section (2) of Section 127 of the Electricity Act, 2003, a consumer has to deposit one third of the assessed amount as a condition precedent for preferring the appeal. Having regard to the fact that there was delay in presentation of the appeal, the petitioner can be required to deposit additional amount, so that the hardship caused to the distributing company can be mitigated, to certain extent.

Hence, the writ petition is allowed and the order dated, 04.02.2004 passed by the 3rd respondent is set aside, on condition that the petitioner deposits a sum of Rs.45,000/- (Rupees forty five thousand only), within two weeks from today. If the amount is paid within that period, the appeal shall be entertained and the delay shall be treated as having been condoned. The petitioner shall be entitled to be supplied the power, pending disposal of the appeal, subject to payment of regular consumption charges. There shall be no order as to costs.

28.01.2005

Jsu

To

1 The Superintending Engineer, Operations Circle North,

A.P.C.P.D.C.L (APSCEB), Minted Compound, Hyderabad now
designated The Superintending Engineer,
Assessment APCPDCL,AP STATE, Housing Corporation

Building, Urdu Galli, Street No.17, Himayathnagar,
Hyderabad.

2 The Assistant Divisional Engineer, D.P.E.II, (APSEB,
APCPDCL,) Hyderabad.

3 The Chief General Manager, Hyderabad Zone, APCPDCL,
Mint Compound, Hyderabad.

4 2CD copies